IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10401 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

VITTHALBHAI GHHAGANBHAI VALAND

Appearance:

MR HARDIK C RAWAL for Petitioner

RULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 20/07/2000

ORAL JUDGEMENT

#. Heard Mr. Hardik Raval learned counsel on behalf of the petitioner.

#. Respondent Vitthalbhai C. Valand was working as a

conductor under the Gujarat State Road Transport Corporation (hereinafter referred to as the Corporation). While in service, during a surprise check it was found that some passengers were travelling in the bus without tickets and in addition some financial irregularities were detected by the inspecting team. A report was submitted against the respondent to the authorities of the Corporation. Accordingly the Disciplinary Authority framed charge against the respondent and started departmental inquiry. In the departmental inquiry the charges against the respondent for misconduct for committing misappropriation of money, was proved and accordingly the Disciplinary Authority dismissed the respondent from service by order dated 5.8.1955. The respondent did not agitate the matter for long 33 years after his dismissal . But after 33 years he moved the Authority for referring this dispute to the Labour Court and accordingly the dispute was referred to the Labour Court, Nadiad which registered the case as Ref. (LCN) No. 50 of 1988. The Labour Court after hearing the parties set aside the order of dismissal and directed the Corporation to pay the ex-gratia payment of Rs. 25,000/and also allowed the respondent the retiral benefits. Since the respondent has already attained the age of superannuation, the order of reinstatement was not passed by the Authority. The learned counsel on behalf of the petitioner submitted that the Labour Court has not given any reason for condoning the delay of 33 years. The learned counsel further submitted that the Labour Court has held that the offence committed by the respondent is of serious nature still however, the Labour Court has taken a lenient view and awarded compensation and retiral benefits to the respondent. I agree with the submission of the learned counsel on behalf of the petitioner. It appears that the Labour Court has acted mechanically without considering the fact that the respondent has moved the authority after 33 years. The Labour Court also did not give any reason for condoning the delay of 33 years in filing the reference. In my view if such a claim is entertained it will create a bad precedent. Therefore, I am of the view that the Labour Court has acted illegally and without jurisdiction in entertaining the reference after 33 years. I am further of the view that Government also should not have referred the matter to the Labour Court after a lapse of 33 years. The claim of the respondent is hopelessly time barred and on that ground alone the reference should have been dismissed by the Labour Court. Since the entertainment of such application will create bad precedent I am of the view that the judgment and award of the Labour Court, Nadiad should be set aside. Accordingly the judgment and

award of the Labour Court, Nadiad in Ref.(LCN) No.50 of 1988 dated 6.9.1999. is hereby quashed and set aside. The writ petition is accordingly allowed. Rule is made absolute. No order as to costs.

(P.K.Sarkar.J)

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